

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

May 21, 2013

In the Matter of BRADFORD, Minors.

No. 313784

Wayne Circuit Court

Family Division

LC No. 12-508930-NA

In the Matter of YOUNG/YOUNG-BRADFORD,
Minors.

No. 313787

Wayne Circuit Court

Family Division

LC No. 12-508932-NA

Before: CAVANAGH, P.J., and SAAD and RIORDAN, JJ.

PER CURIAM.

In these consolidated appeals, respondent appeals as of right the trial court orders terminating his parental rights to his four minor children pursuant to MCL 712A.19b(3)(b)(i) (parent caused physical injury), (j) (reasonable likelihood of harm), and (k)(iii) (battering or severe physical abuse). We affirm.

I. FACTUAL BACKGROUND

In July 2012, respondent physically abused one of the minor children, then five months old, because the child was crying. The child suffered a fracture compression of the spine, suffered impairment in his left side, and needed a cervical collar. The child's injuries were highly specific for non-accidental trauma, most likely due to strangulation. While respondent initially denied knowing how the baby was injured, he eventually confessed that the baby was fussing, which caused respondent to grab the baby by the neck and throw him onto the bed.

Petitioner filed a petition to terminate respondent's parental rights to his four children, although the children remained in the homes of their respective mothers. Respondent was criminally charged for his actions and pleaded no contest in the termination proceedings, thereby stipulating to the statutory grounds for termination. Pursuant to respondent's no-contest plea, the hospital report, and the protective services investigative summary, the trial court found that it had jurisdiction over the children and that the statutory grounds for termination existed under MCL 712A.19b (3)(b)(i), (j), and (k)(iii). After a best interest hearing, the trial court found that

termination was in the children's best interests and terminated respondent's parental rights. Respondent now appeals.

II. BEST INTEREST

A. Standard of Review

Respondent contends that the trial court erred in finding that termination of his parental rights was in the children's best interests. We review the trial court's decision for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). "A circuit court's decision to terminate parental rights is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

B. Analysis

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). The trial court must "decide the best interests of each child individually." *In re Olive/Metts Minors*, 297 Mich App 35, 42; 823 NW2d 144 (2012). In determining whether termination is in the child's best interests, the court may consider the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the child's safety and well-being. *Id.* at 41-42; *In re VanDalen*, 293 Mich App 120, 142; 809 NW2d 412 (2011).

The trial court in the instant case did not clearly err in its best-interests analysis. The evidence established that respondent strangled his infant son because he was unable to cope with the child's crying. As noted above, a trial court may consider a child's safety and well-being in the best interest determination. *In re VanDalen*, 293 Mich App at 142. The Child Protective Service worker involved in the case also testified that termination of respondent's parental rights was in the best interest of the children, based on the severity of the physical abuse and the pending criminal charges. She also expressed concerns about respondent's mental health, and the way in which he reacts when frustrated or depressed. Considering this evidence, we find no error in the trial court's finding that due to the severe physical abuse and respondent's ongoing depression, it was in the best interests of the children to terminate respondent's parental rights.

Moreover, respondent's treatment of the minor child he strangled is probative of how he is likely to treat his other children. *Matter of Jackson*, 199 Mich App 22, 26; 501 NW2d 182 (1993) ("evidence of the mistreatment of one child is probative of the treatment of other children of the party."). Respondent's inability to control violent impulses when confronted with the ordinary demands of parenting presented a risk of harm to all of his children, who all were very young and vulnerable. While respondent contends that the trial court failed to make an individual finding with regard to each child, the trial court was merely articulating its findings in a summarizing statement, finding that: "due to their tender age and their vulnerability, the Court finds that at this point in time, it's in the children's best interests to terminate [respondent's] parental rights." Nothing in the record indicates that the trial court's findings would have been

different if it had articulated the exact same justifications, using each child's name, in the redundant fashion respondent suggests. Because the minor children in the instant case were similarly situated and respondent posed the same threat to each, the trial court did not clearly err in finding that termination was in the best interests of the minor children.

We also find no merit in respondent's claim that the trial court erred in failing to address the children's placement with relatives. "A trial court's failure to explicitly address whether termination is appropriate in light of the children's placement with relatives renders the factual record inadequate to make a best-interest determination and requires reversal." *In re Olive/Metts Minors*, 297 Mich App at 43. However, as the Michigan Supreme Court recognized in *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010), this factor is derived from MCL 712A.19a(6)(a). For purposes of MCL 712A.19a, the term "relative" is defined as an individual who is "related to the child by blood, marriage, or adoption, *as* grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the above" MCL 712A.13a(1)(j) (emphasis added). This definition does not include a person related to a child as a parent, and the children in the instant case remained with their mothers. Thus, respondent has failed to demonstrate error requiring reversal.

Respondent also contends that reversal is required because petitioner failed to provide him with reunification services. "Petitioner, however, is not required to provide reunification services when termination of parental rights is the agency's goal." *In re HRC*, 286 Mich App 444, 463; 781 NW2d 105 (2009). Petitioner requested termination of respondent's rights in its initial petition because of the severe physical abuse respondent caused, noting that termination at initial disposition was proper. Moreover, while respondent cites to MCL 712A.18f(1), that statute applies when a child has been removed from his or her home and the agency advises against placing the child with a parent. In the instant case, the children were not removed from their homes and petitioner recommended that they remain in their mothers' custody. Thus, respondent has failed to demonstrate error requiring reversal.

III. CONCLUSION

The trial court did not clearly error in finding that termination was in the children's best interests. We affirm.

/s/ Mark J. Cavanagh
/s/ Henry William Saad
/s/ Michael J. Riordan